



PLYMOUTH BOARD OF SELECTMEN: Dispute over 'environmentally sensitive' lot continues

By Frank Mand

Wicked Local Plymouth

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PLYMOUTH — A small, 5-acre property off Little Herring Pond, the sale of which was subject to the restrictions of the state law known as 61A, could, according to Plymouth resident and attorney Jerry Benezra, become a large, legal thorn in the side of the folks who work at 11 Lincoln St.

Simply put, this provision of the law is a way to keep open space – often agricultural properties – open, by offering tax abatements as rewards to property owners who do so.

Another key element in the 61A regulation is that, if and when the property owner wants to sell, the town gets the first option to purchase the land – often referred to as the “first right of refusal.”

That did, indeed, happen with this property. But, Benezra suggests the town slipped up and then missed its window of opportunity to buy the land.

There are disagreements, however, about any slip up and whether the town actually missed any opportunity.

Town officials argue that if no one in town government expressed serious interest in purchasing the property, it's not an opportunity missed, it's an offer declined.

“We did not ever have an official request from any department or committee to recommend to the selectmen to purchase the property,” Town Manager Melissa Arrighi told the *Old Colony*.

“There were conversations about an interest to purchase, most specifically by Selectmen Mahoney at the meetings,” Arrighi elaborated, “but no one group came forward and made that formal request within the 120 days.”

Secondly, some people claim there is still an opportunity for the town to make an offer on the property.

Everyone does agree that there is a 120-day period, which begins when the property owner receives a bona fide offer to buy, during which the town must officially express its interest in acquiring the property.

But not everyone seems to have known that there was an additional 90 days after the expression of interest has been made for the town to make its own offer.

Marine and Environmental Affairs Department Director David Gould was on record urging the purchase, but looking to other sources – including the Community Preservation Committee – for the money to fund it.

Gould became aware of the property fairly late in the process, though, because his department was not officially notified.

When the boards that have a legitimate interest in receiving notification of 61A offerings were supposed to be notified, the Department of Marine and Environmental Affairs was not on the list.

Director of Planning and Development Lee Hartmann acknowledged that miscue, but noted it was not a deliberate omission. Rather, because it is a new town department, an organizational change only recently approved, the Department of Marine and Environmental Affairs was not on the list that had been previously compiled for notification, Hartmann said.

Members of the Open Space Committee also said they did not receive notification but, according to Hartmann, that committee was on the list and, most likely, its notification letter was lost in transit.

What seems undisputed is that many other boards and committees did receive the notification, including the Community Preservation Committee, and several of that committee's members were, at the time, also serving on the Open Space Committee.

While no one made a formal request to purchase the property, each week for several months Selectman John Mahoney took time at the board's meetings to mention the failure of the process.

Finally, just a few weeks ago, the Board of Selectmen tried to put a stake down the issue by formally voting to waive the town's right to purchase the land.

In response to the confusion, Arrighi ordered a revamping of the 61A notification process, and she outlined those changes at this week's meeting of the Board of Selectmen.

But at that same meeting, Benezra stepped forward during the public comment section and launched a blistering attack on town government and town counsel.

Benezra alluded to an unnamed staff member who, he seemed to suggest, had mishandled the process.

“I have assiduously stayed away from any comments that might raise a question of impropriety,” Benezra said, “because I really want to get to the issue – which I regard as an existential issue – of just how this town operates when it understands that it has been given poor legal advice.”

Benezra warned the board that if it doesn't revisit the issue and make it clear that there were errors in both the way the town was notified by the property owner and the information that was provided to various town officials, selectmen will be laying the groundwork for legal action against the town.

"I want to make it clear," Benezra said, "that non-action and a failure to even notify (the property owners) that this question has been raised will ultimately end up in a lawsuit."

Benezra's warning was clear but, as of Thursday, the town had not expressed any interest in revisiting the issue.

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'While no one made a formal request to purchase the property, each week for several months Selectman John Mahoney took time at the boards meetings to mention the failure of the process.'

Thank you Mr. Mahoney for trying to do the right thing. It must certainly be difficult to work with a board bent on ignoring such opportunities.

So, if I read this article correctly, this land has been given a tax break for years, for simply not developing it, then SOMEONE screws up notifying the obvious departments that it's available for purchase. Now, 'its not an opportunity missed, its an offer declined.' Spoken like a true politician.

New departments were simply left off the list and some others had their notifications 'lost in the mail'. OMG, you can't make this stuff up!

We did not ever have an official request from any department or committee to recommend to the selectmen to purchase the property, Town Manager Melissa Arrighi told the Old Colony. No, I wouldn't imagine you would Melissa, if the departments weren't properly notified the property was available for purchase.

Interesting the property isn't identified more specifically. No owner, just a 'SMALL 5 acre piece'? Gould was 'urging' the purchase, but to the Board? His new department wasn't notified? No departments talk to each other? Wow, another case of no one in charge, dropping the ball so to speak, lack of leadership.

Again, thanks Mr. Mahoney for attempting to motivate the Board.

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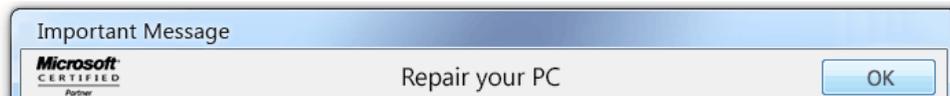
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